

matter. Independent claims 24 and 48 are accordingly amended, by the above claim amendments, and the presently pending claims, and those claims that depend therefrom, claim statutory subject matter, thereby overcoming all the raised § 101 rejections.

35 U.S.C. § 112

Claims 24-33, 35-44 and 46-65 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. Independent claims 24 and 48 are accordingly amended, by the above claim amendments, and the presently pending claims, and those claims that depend therefrom, particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections.

35 U.S.C. § 102(b)

Claim 66 is rejected under 35 U.S.C. 102(b) as being anticipated by Jacobs (US 5,550,746) of record. Claim 66 has been amended. Jacobs does not disclose or suggest among other things, the limitation of a computer running a funeral planning routine comprising processes for generating a funeral arrangement plan for a period of execution. Withdrawal of this rejection is respectfully requested.

35 U.S.C. § 103(a)

Claims 24-28, 34, 35-42, 44, 45, 47, 48, 50 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Tafirenyika publication of record. Claims 29-33, 35, 43, 46, 49, 51-60, 62 and 63 are rejected as being unpatentable over the Tafirenyika publication as applied to claim 24, and further in view of Yagasaki of record. Claims 64 and 65 are rejected as being unpatentable over the Tafirenyika publication as applied to claim 48 in view of Tavor et al of record. Reconsideration and withdrawal of these obviousness rejections is respectfully requested in view of the above amendments and following remarks.

With regard to the obviousness rejection to claims 24-28, 34, 35-42, 44, 45, 47, 48, 50 and 61, the Tafirenyika publication only suggests the selling of caskets online. In particular, Applicants note that the Tafirenyika publication states that “[c]lients

‘anywhere in the world’ can pay \$50 and receive a funeral planning package complete with a will, statistical forms, and a funeral planning package.” As such, the Tafirenyika publication teaches manually planning a funeral using a hardcopy funeral planning package. The Tafirenyika publication thus fails to disclose, teach, or suggest a computer-implemented method permitting a user to electronically plan a funeral on a computer comprising, among other things, “employing on the computer a funeral planning routine comprising processes adapted to generate a funeral plan” as recited by amended independent claims 24 and 48. Accordingly, one skilled in the related art at the time the invention was made would not have been provided with the suggestion from the Tarirenyika publication that a funeral plan could be generated employing a computer.

The Examiner’s assertion that “it would have been obvious to one of ordinary skill in the art in view of the showing and teaching of the Tafirenyika publication to use a computer to implement any well-known arrangements of a routine funeral” does not adequately address the issues of motivation and the reasonable expectation of success. See, e.g., *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). This factual question of motivation is material to patentability, and cannot be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to the claimed invention, simply to “[use] that which the inventor taught against its teacher.” W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983).

Contrary to the Examiner’s assertion, those skilled in the funeral arts would not have known to use a computer to implement well-known manual arrangements of a routine funeral in view of the showing and teaching of the Tafirenyika publication. Furthermore, there is no reasonable expectation of success that one skilled in the art in viewing the showing and teachings of the Tafirenyika publication could implement well-known manual arrangements on a computer of a routine funeral. In fact, it could be argued that the Tafirenyika publication teaches away from a computerized method of

planning a funeral by stating that buyers can purchase a funeral planning package and receive a funeral instruction sheet.

As explicitly stated in Exhibit B provided with the 37 C.F.R. 1.131 declaration filed with Applicants' response of August 5, 2002, the present invention created a stir in the funeral service industry when introduced at the National Funeral Director Association Convention in October, 1998. Prior to the present invention, although ordering caskets online was known, providing a computer implemented method which permitted a user to electronically plan a funeral on a computer was not known, and the present invention caused that stir due to its innovation and success. In fact, the present invention has been so successful that a number of competitors have attempted to capitalize on the innovation of the Applicants by filing related patent applications years after the present invention. See e.g., US2001/0032093, US2002/0004757, and US2003/0014266 (copies enclosed).

The Applicants are unaware of any prior art reference that discloses or suggests a computer implemented method which permits a user to electronically plan a funeral on a computer as recited by the claims. Accordingly, the Examiner is requested either to provide a signed declaration attesting to such knowledge as one skilled in the art, provide a reference that teaches or suggests to one skill in the related art the claimed invention, or withdraw the rejection to claims 24-28, 34, 35-42, 44, 45, 47, 48, 50 and 61, as clearly a *prima facie* case of obviousness is unsupported by the Tafirenyika publication alone.

With regard to the obviousness rejection to claims 29-33, 35, 43, 46, 49, 51-60, 62 and 63, Yagasaki is directed to a virtual mall providing a searching capability to locate and order a service or product offered by a number of vendors. Applicants assert therefore that the combined teachings of Yagasaki and Tafirenyika fail to teach or suggest a computer-implemented method permitting a user to electronically plan a funeral on a computer comprising, among other things, "employing on the computer a funeral planning routine comprising processes adapted to generate a funeral plan" as recited by amended independent claims 24 and 48, from which these rejected claims

depend. As the cited prior art is silent on the ability, or even the desire, to electronically plan a funeral on a computer having features as recited by amended independent claims 24 and 48, Applicants assert that their dependent claims are also unobvious for all the above reasons.

With regard to claims 64 and 65, Tavor et al. is cited for disclosing a method for shopping over the Internet, which includes multimedia presentations to make the session enjoyable for the customer. Tavor et al. do not cure the noted deficiencies of Tafirenyika as applied to claim 48, from which these rejected claims depend. Accordingly, withdrawal of this rejection is also respectfully requested.

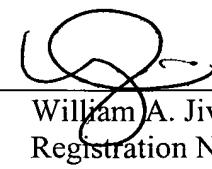
CONCLUSION

Applicants respectfully submit that the present application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

KILLWORTH, GOTTMAN, HAGAN &
SCHAEFF, L.L.P.

By


William A. Jividen
Registration No. 42,695

One Dayton Centre
One South Main Street, Suite 500
Dayton, Ohio 45402-2023
Telephone: (937) 223-2050
Facsimile: (937) 223-0724
e-mail: jividenw@kghs.com
WAJ/

APPENDIX - A
VERSION WITH MARKINGS TO SHOW CHANGES MADE

24. (Amended) A computer-implemented method permitting a user to electronically plan a funeral on a computer comprising:

employing on the computer a funeral planning routine comprising processes adapted to generate a funeral plan;

receiving via the computer planning data from the user, said planning data including biographical information, period of execution, and funeral arrangement information;

utilizing said planning data in said funeral planning routine to generate said funeral plan; and

outputting via the computer at least a summary of said funeral plan to the user such that the user may determine whether to revise or accept said funeral plan as represented by said received said planning data.

48. (Amended) A computer-implemented method permitting a user to electronically plan a funeral on a computer comprising:

employing on the computer a funeral planning routine comprising processes adapted to generate a funeral plan;

retrieving via the computer information requested by the user associated with a plurality of products and services;

receiving via the computer planning data from the user, said planning data including biographical information, period of execution, and funeral arrangement information comprising desired products and services;

utilizing said planning data in said funeral planning routine to generate said funeral plan; and

outputting via the computer at least a summary of said funeral plan to the user such that the user may determine whether to revise or accept said funeral plan as represented by said received said planning data.

66. (Amended) A funeral arrangement planning system adapted to permit a user to electronically plan a funeral comprising:

 a computer running~~adapted to run~~ a funeral planning routine comprising processes for generating a funeral arrangement plan for a period of execution;

 an input device for inputting to the funeral planning routine planning data, said planning data including biographical information, period of execution, and funeral arrangement information;

 a display for presenting visual objects related to said funeral planning routine and said planning data;

 a memory device storing information related to funeral products and services;

 a communication device for connecting to a remote server of a distributor of said funeral products and services to update said information and to provide an order to said distributor;

 said computer utilizes~~is adapted to utilize~~ said funeral planning routine to interactively guides the user through the planning of the funeral by accepting funeral arrangement data from the user and, when necessary, accessing said information stored in said memory device and storing said funeral arrangement data to said memory device, and

 said computer utilizes~~is adapted to utilize~~ said funeral planning routine and said planning data to generate a summary such that the user may determine whether to revise or accept the funeral arrangement plan as represented by said input planning data, if revising then the user may edit any portion of said planning data, and if accepting then said funeral planning routine is capable of sending said order to said distributor.